IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8145 OF 2005

Fozia Trading Company & Ors. ...Petitioners
Vs.
Union of India & Ors. ...Respondents

Mr.J.P.Cama, Sr. Counsel with Mr.Bimal Bhabhda Adv. for Petitioners
Mr. S.S. Pakale for Respondents

CORAM: F.I.REBELLO & ROSHAN DALVI, JJ.
DATED: 30TH NOVEMBER , 2005

P.C.

. Rule. By consent heard forthwith.

2. The Petitioner was issued a show-cause notice dated 4th June 2005. The relevant paragraphs of the said show-cause notice may be reproduced as under :

> . "7. From the above, it is clear that you have withheld crucial and important information which forms the basis of assessing your financial status and accordingly your Contract Carrying Capacity.
>
> . 8. In view of the above, please show cause as to why the said two properties be not excluded from consideration for calculation of your contract carrying capacity and also furnish details of liquid funds held by you

other than immovable property."

3. On issuing said show-cause notice a reply is filed by the Petitioners herein dated 28th June 2005. It is not necessary for this Court to go into the contents of the said reply. The Respondents thereafter by order dated 4th October 2005 informed the Petitioner that having considered the show cause notice and the reply the Petitioner is removed from the provincial list of Contractors for all items with immediate effect out of the concerned area.

4. The question that immediately emerges is whether when the said show cause notice was issued, limited to excluding from considering of the 2 properties set out in the show cause notice for calculation of the Petitioner's contract carrying capacity, was it open to the Respondent to impose the punishment of cancellation of contract without giving Petitioner an opportunity.

5. It is a cardinal principle of our jurisprudence that when civil rights of the party are affected, the party must have an opportunity of showing cause against the proposed action. In other words party must have prior intimation that the registration is proposed to be cancelled, in order to enable the party to show cause against the proposed action. In the instant case the show-cause notice

served by the Respondents on the Petitioner does not disclose that the Respondent proposed to cancel the registration of the Petitioner. Considering that the order passed is without the Petitioner having an opportunity of showing cause, this would be arbitrary and violative of Article 14 of the Constitution of India. In the light of that the impugned order dated 4th October 2005 is quashed and set aside.

6. It is made clear that it will be open to Respondents if they are so advised to take such action in law which they are entitled to include issuing proper show-cause notice to the Petitioners and the order of this Court would not stand in their way.

(F.I.REBELLO J.)

(ROSHAN DALVI, J.)